#### Remarks

#### In the Specification

The first paragraph beneath the title is amended to reflect the issuance of parent U. S. Application No. 10/335,727, filed January 2, 2003, as U.S. Patent No. 6,737,533,

#### In the Claims

Claims 11-18 were pending.

Claims 11-18 are amended.

Claims 19-36 are new.

Claims 11-36 are now pending.

There are no allowed claims.

Claim 19 is added to more accurately claim the invention by more clearly delineating the limiting characteristics which define the novelty of the instant vitreous materials, namely transparency, uniform coloring and coloring by at least two pigments selected from the classes listed. Support is found original claim 11, and in the specification i.e., the classes of pigments to be used are listed at the top of page 3, transparency is discussed on page 4 in paragraph 5, and preference for 2-10 pigments is disclosed on page 4 in paragraph 7.

Claims 20 and 21 are added to include the presence of a surfactant in the vitreous material. Claim 22 and 23 further specify the presence of a surfactant and the absence of a dispersant. Support for these four claims is found in the specification on page 2 lines 17 and 18 and the use of surfactants is illustrated in Examples 44-46.

10/771,996 - 6 - EL/2-22117/A/DIV 2

Claims 24 and 25 are added to include in the vitreous material the presence of polyhydroxystyrene, an organic modifier which is reactively built into the gel. Support is found in Example 42.

Claims 26 and 27 are added to claim the use of a combination of pigments from different pigment classes, it should be understood that pigment classes and pigment series are synonyms. Support is found in examples 17-20, 22-23, 31-33, 40, and as described for new Claim 19.

Claims 28-36 are added to incorporate the limits of claims 19, 25 and 27 into the articles of Claims 12 and 14-17. Support is in the original claims and as described for new Claims 19, 25 and 27.

#### Claim Rejections

Claims 11-14,16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito US Pat 5,464,566 and 5,520,855 as each reference describes a glass gel thin film coating composition comprising a metal alkoxide or polycondensate of a metal alkoxide, a coloring material, an alcohol solvent and a dispersant which forms a glass gel thin film upon sintering at elevated temperatures. Each reference also includes a list of pigment classes encompassing the pigments of the present application's claim 11.

Applicants respectfully traverse the rejections in light of the above amendments and the following discussion.

US-5,464,566 is a continuation of US-5,520,855, which is an equivalent of EP-0 504 926, which is itself cited in the application on page 1. There are key differences between the cited art and the present invention which render the present colored composition novel. This novelty is a result of the interaction between the pigment precursor's solubilizing groups and the gel, leaving a final composition wherein pigment particles exist in a different physical form and are better embedded into the polymer matrix. As a result, vitreous materials with a range of superior coloristic properties are prepared which are otherwise unavailable.

10/771,996 - 7 - EL/2-22117/A/DIV 2

The physical state of the instant pigment is clearly different than that of the cited art. The cited art uses finished, commercially available pigments, such as Hostaperm® Pink E (Color Index Pigment Red 122). Enclosed is a product data sheet from the manufacturer (Hoechst, now Clariant), listing a density of 1.43 g/cm³ and a specific surface area of 78 m²/g. From these data, the idealized diameter of a weight average sphere of this pigment is calculated to be 53.8 nm\* using the known formulae  $V=(4/3)\pi\cdot r^3$ ,  $S=4\cdot \pi\cdot r^2$  and  $W=V\cdot d$ . In reality the pigment is not in the form of spheres but rather rod-like, so that the average particle size is significantly longer.

```
* <u>Control</u>: average particle volume = (53.8/2 \cdot 10^{-7})^3 \times 3.1416 \times 4/3 = 81.5 \cdot 10^{-18} \text{ cm}^3; average particle weight = 81.5 \cdot 10^{-18} \text{ cm}^3 \times 1.43 \text{ g/cm}^3 = 116.5 \cdot 10^{-18} \text{ g}; average particle surface = 4 \times 3.1416 \times (53.8/2 \cdot 10^{-7})^2 = 90.9 \cdot 10^{-12} \text{ cm}^2; specific surface area = 90.9 \cdot 10^{-12} \text{ cm}^2 / 116.5 \cdot 10^{-18} \text{ g} = 780000 \text{ cm}^2/\text{g} = 78 \text{ m}^2/\text{g}.
```

In embodiment 1of '566, the pigment is wet-milled for 12 hours to a particle size of 20 nm. The other examples show multiple variations in size which can only be obtained through milling or similar treatments. Thus, the pigment is mechanically altered: fresh surface breaks and crystal defects (sometimes even changes in crystal modification or surface amorphisation) are formed, which phenomenon well-known in the art leads to significant decrease in UV light stability ('566 table 2). The assumption in '566 (column 8 line 45) that the penetration of UV-light would be different makes little sense as the pigments are entirely transparent up to 300 nm. In addition, there is chemical alteration of the pigment from the mineral acid and the metal alkoxide during sintering and protection from the dispersant is only effective at high dispersant concentrations.

The instant pigments are generated *in situ*. There is no mechanical treatment which could alter them, and the pigments are present in a chemically protected form until well into the gelation process (page 4, lines 5-7). The pigments are only then generated, preferably simultaneously with the termination of the gel formation (page 5, lines 18-22), which excludes even accidental physical alteration and minimizes the time of exposition to chemical alteration. This novel approach to colored vitreous materials has not previously been disclosed or suggested.

When generated *in situ*, pigments, such as the instant pigments, are in a form having enhanced purity, color strength, brilliance and transparency (U. S. Pat. 5,484,943, column 11, lines 50-51 and U. S. Pat. 5,811,543, column 17 lines 14-16), sometimes in new crystal modifications (U. S. Pat. 5,484,943, column 12, line 11). Note that these US patents are equivalents of EP 648 770 and

10/771,996 - 8 - EL/2-22117/A/DIV 2

EP 648 817 cited in the application. However, the pigment precursors of '943 and '543 can not provide the advantages of the instant composition. As discussed on page 35, paragraph 3 and 4 of the instant application, certain types of substituents are required on the pigment precursors for the necessary compatibility with the gel. Without the novel, instant precursors there is insufficient compatibility with the instant gel to generate the novel vitreous materials of the instant invention.

The instant color improvement (page 15, line 15) therefore, results from a different physical form of the pigment and better embedding into the matrix as a direct result of the interaction between the precursor's solubilizing groups and the gel (page 2 lines 19-22). These color improvements are the characteristics of a novel, physical composition which exists only in light of the instant invention.

Applicants therefore request that the 35 U.S.C. 102(b) rejections be withdrawn.

Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being obvious in light of Ito US Pat 5,464,566 and 5,520,855, as the references teaches compositions for coating glass objects.

Applicants respectfully traverse the rejections.

While Applicants respectfully assert that the invention as originally claimed is novel as presented above, they nevertheless chose to claim the preferred alternative wherein the pigmented vitreous material contains effective amounts of from 2 to 10 organic pigments in order to highlight advantages of the instant invention that could not be anticipated in its absence. In the instant invention it is not necessary to use dispersants. Such dispersants, as found in the art, must be tailored to the specific pigments employed and are frequently antagonistic with respect to each other (page 2 lines 12-13). Thus, the use of pigment mixtures is problematic.

As the instant invention removes the need for dispersants, pigment combinations otherwise difficult to impossible to achieve are readily accessible. Applicants aver that the burden of proof in showing the novelty of the present compositions has been met.

As this advantage could not be anticipated in the absence of the instant invention, Applicants request that the 35 U.S.C. 103(a) rejections be withdrawn.

No new matter is added.

10/771,996 - 9 - EL/2-22117/A/DIV 2

Applicants submit that the present claims are now in condition for allowance and respectfully request that they be found allowable.

Respectfully submitted,

Ciba Specialty Chemicals Corp. 540 White Plains Road P.O. Box 2005 Tarrytown, NY 10591-9005 Tel. (914)785-2783 Fax (914)785-7102

Tyler A. Stevenson Agent for Applicants Reg. No. 46,388

ATTACHMENTS: Fee letter for additional claims,

Product data sheet for Hostaperm® Pink E (Color Index Pigment Red 122)

# BEST AVAILABLE COPY

"Hoechst High Chem

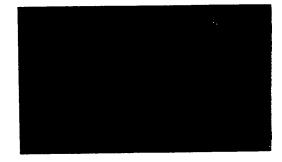
Pigment

#### Hostaperm-Rosa E Hostaperm Pink E Rose Hostaperm E Rosa Hostaperm E

Chinacridonpigment
Quinacridone pigment
Pigment de quinacridone
Pigmento de quinacridona

Pigmento de quinacridona		
Lichtechtheit Fastness to light Solidité à la lumière Solidez a la luz	Wetterechtheit Fastness to weathering Solidité aux intempéries Solidez a la intemperie 24 M AM HS-TSA	12 M WBC
VT 7d TT 7–8d ½ ST 8 ½ ST 8	VT 4-5d - TT 4-5 5 ½ ST 4-5 4-5 ½ ST 4 4-5 MET - 5	4–5d 4–5d 5 5 5
Transparenz Transparence	Transparency Transparencia	4
Überlackierechtheit Fastness to overpainting Solidité au réchampissage	AM AM 80 °C 120 °C	AM 160 °C
Solidez al repintado	5 5	5
Hitzebeständigkeit Résistance à la chaleur	Heat stability Estabilidad térmica	200 °C
Säureechtheit Solidité aux acides	Fastness to acids Solidez a los ácidos	5
Alkaliechtheit Solidité aux alcalis	Fastness to alkalis Solidez a los álcalis	5
Lösemittelechtheit Résistance aux solvants	Fastness to solvents Solidez a los disolventes	
Wasser Eau	Water Agua	5
Butanol Butanol	Butanol Butanol	3–4
Ethylglykol Ethylglycol	Ethyl glycol Etilglicol	3
Butylacetat Acétate de butyle	Butyl acetate Acetato de butilo	4
Methylethylketon Méthyléthylcétone	Methyl ethyl ketone Metiletilcetona	4
Lackbenzin White-spirit	White spirit Bencina para laca	5
Xylol Xylène	Xylene Xilol	4–5

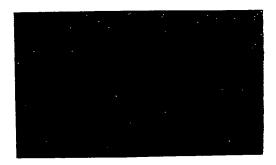
C. I. Pigment Red 122 Colour Index No. 73915



 $\mathbf{T}$ 



1/3 ST 1:4,9 TiO<sub>2</sub>



MET 80:20



#### Technologische Eigenschaften

Sehr farbstarkes Magentapigment mit hervorragender-Licht- und Wetterechtheit in sehr weitem Konzentrationsbereich. Einsatzgebiete: Nuancierpigment zum Blauerstellen von Rotnuancen und Kombinationspigment in Metallic- und Perlglanzeffektlacken für Fahrzeuglacke.

#### **Technological properties**

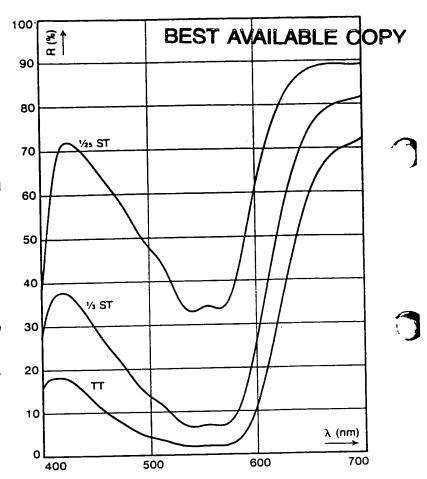
Magenta pigment with very high tinctorial strength and outstanding fastness to light and weathering in a very wide concentration range. Fields of application: shading pigment for imparting a bluer hue to red shades, and as a combination pigment in metallic and pearlescent effect paints for vehicle finishes.

#### Propriétés technologiques

Pigment magenta à très grand pouvoir colorant, d'une remarquable solidité à la lumière et aux intempéries à resque toutes les concentrations. Applications: pigment de nuançage pour le bleuissement de rouges et pigment utilisé en combinaison dans les peintures automobiles métallisées et nacrées.

#### Propiedades tecnológicas

Pigmento magenta de gran fuerza colorante, con excelente solidez a la luz y a la intemperie en un margen muy amplio de concentración. Campos de aplicación: Pigmento de matización para el ajuste azulado de matices rojos y pigmento de combinación en pinturas de efecto metálico y de brillo anacarado para el pintado de vehículos.



Reflexionskurve Reflectance curve Courbe de réflexion spectrale Curvas de reflexión

Dichte Density Densité Densidad	1,43 g/cm³
Spezifische Oberfläche Specific surface	702/
Surface spécifique Superficie específica	78 m²/g

# **Colour Index International**

# **Commercial Products**

Henri Dubas



0000 00031 0 0000 000 0 0000 0

Search | Your account | Help | Logout

08 September 2004

## Commercial Name: Hostaperm Pink E

Previous | Next

C.I. Constitution

C.I. 73915

numbers

C.I. Generic Name

C.I. Pigment Red 122

Manufacturer

Clariant GmbH

Physical form

Powder

Main applications

Paint, Printing Inks, Other

Uses and comments

Data amended

01-Jan-00

Home Help Reset : Contact the Society | Tech Support | Make the Colour Index your home page | Howers and Colourists and American Association of Textile Chemists and Colorists 2002

BEST AVAILABLE COPY

BYK

BYK

BYK

BYK°-306 BYK°-307 BYK°-310 BYK°-330 BYK°-333 BYK°-341 BYK°-344

# Silikon-Oberflächenadditive mit starker Reduktion der Oberflächenspannung

#### Chemischer Aufbau

BYK-308/-330/-341/-344	Lösungen eines polyethermodifizierten Polydimethylsiloxans
BYK-307/-333	Polyethermodifiziertes Polydimethylsiloxan
BYK-310	Lösung eines polyestermodifizierten Polydimethylsiloxaris

#### Kenndaten

	Dichte bei 20°C	Nichtflüchtige Anteile in %	Flammpunkt in °C	Lösemittel
BYK-306	0,93	12,5	25	Xylol/Monophenylglykol 7/2
BYK-307	1,03	≥ 97	> 100	
BYK-310	0,91	25	25	Xylol
BYK-330	0.98	51	45	Methoxypropylacetat
BYK-333	1,04	98	> 100	· •
BYK-341	0,97	52	64	Butylglykol
BYK-344	0,94	52	23	Xylol/Isobutanol 4/1
	Die angegebener Ausfalldaten	i Werte stellen keir	e Spezifikationen d	far, sondern sind typische

## Empfohlene Zusatzmengen

	Additivmenge in % Lieferform auf	
	Gesamtformulierung	
BYK-306/BYK-330	0,1 = 0,5	
BYK-307	0,01 - 0,15	
BYK-310	0,05-0.3	in lösemittelfreien Systemen bis zu 0,5
BYK-333	0,05 - 0,3	in wäßrigen und UV-Systemen bis 1,0
BYK-341/BYK-344	01=63	

#### **BEST AVAILABLE COPY**

# Einarbeitung und Vorgehensweise

Die Addrive werden dem bereits ferliggestellten Lack zugegeben. Ein Einsatz ist jedoch zu jeder Phase der Lackberstellung möglich. Eine Verdünnung vor der Einarbeitung kann besonders bei BYK-307 und BYK-333 zur leichteren Doslerung hilfreich sein

# **Einsatzgebiete**

	Lösenittelhaltige :::: Systeme	Lösemittelfrele Systeme	Wasserige Systeme
BYK-306		0	0
BYK-307			
BYK-310		0	
BYK-330		0	
BYK-333			•
BYK-341		Q	
BYK-344		0	
180 (180 (180 (180 (180 (180 (180 (180 (	besonders empfohlenes	Einsätzgebiet.∷O.empfohle	nes Einsatzgebiet

#### Wirkungsweise dieser Additive

Diese Additive bewirken eine starke Emiedrigung der Oberflächenspannung der Lacksysteme. Sie verbessern daher besonders die Untergrundbenetzung und vermeiden die Kraterbildung. Welterhin werden die Oberflächenglätte und der Glanz erhöht.

## Lagerung und Transport

BYK-308/-310/-333 Bei Temperaturen unter +5°C können Trübung und Separation auftreten.
Vor der Verarbeitung deshalb auf Raumtemperatur erwarmen und gut umrühren.
Die Wirksamkeit der Produkte wird dadurch nicht beeinträchtigt.

# Verpackung

Kannen und Fässer Nicht vollständig entleerte Gebinde müssen sofort nach Gebrauch verschlossen werdent



# **JEST AVAILABLE COPY**

## Eigenschaften und Vorteile

ВҮК-306	BYK-306 ist BYK-306 ve	ein hochwirksam rbessert die Stau	es Silikonadditiv zu b- und Spritznebela	r Benetzung kritisc umahme und den	her Untergrunde Stand an
	Zugluftemp	indlichkeit. BYK-	306 fordert die One	ntierung von Mattie	rungsmitteln.

BYK-307

BYK-307 hat ein dem BYK-306 vergleichbares Eigenschaftsbild und wird aufgrund seiner lösemittelfreien Lieferform besonders in Systemen eingesetzt, in denen ein lösemittelfreies Additiv gefordert wird oder wo spezielle Lösemittelkombinationen zur Selbstanlösung gewünscht werden.

BYK-310 ist ein thermostablies Silikonadditiv; das im Gegensatz zu konventionellen.

Silikonen keinen thermischen Abbau bei Temperaturen zwischen 150°C und 230°C zeigt. Somit treten auch beim Überlacklieren keine Haftungsverschlechterungen und Oberflächenstörungen auf, die durch die Spaltprodukte konventioneller Silikone ab 150°C verursacht werden können.

Die Wirksubstanz von BYK-310 ist im CFR Band 21 (food and drugs) § 175 300; Indirect Food Additives, Adhesives and components of coatings aufgeführt, wobei die Einsatzmenge 0.1 % Lieferform und die Filmstärke 12 jum nicht überschreiten darf.

**BYK-330** 

verbessert den Verlauf, das Ausschwimmen und die Orientierung der Mattierungsmittel sowie die Ritz- und Kratzfestigkeit. BYK-330 wirkt stark oberflächenberuhigend, so daß die Empfindlichkeit von Lacksystemen gegenüber Fremdteilchen und starkem Luftzug wesentlich verringert wird. BYK-330 verhindert besonders bei Gießlacken, die auf vorgewärmten Holzplatten aufgebracht werden, Oberflächenstörungen.

BYK-333 erhöht die Oberflächenglätte stark und verbessert deutlich die
Untergrundbenetzung. Es ist universell in allen aufgeführten Lacksystemen
einsetzbar. In wässerigen Systemen verbessert es die Anti-Blocking-Eigenschaften.
BYK-333 besitzt eine ausgezeichnete Verträglichkeit und kann als Antikrateradditiv
eingesetzt werden.

BYK-341

BYK-341 fördert die Untergrundbenetzung und wirkt als Antikrateradditiv in wässerigen und lösemittelhaltigen Lacken.

BYK-344 erhöht die Oberflächenglätte und verbessert die Untergrundbenetzung.

BYK-344 verbessert die Anti-Blocking-Eigenschaften. Bei Neuformulierungen ist
dem BYK-306 der Vorzug zu geben.

#### Hinweise

**BYK-310** 

Allgemein Im	1.4.5111.11.11.11.11.11.11.11.11.11.11.11.1				ration (Court of the first of the Court of the first of t	12120114
- WAllcemeinschübersschüberschiller.	(Canonesta:	711. 60464 300	ten:Silikanalien:	CIDO DIASE ACCUI	MP:SBOE::IACKTERNOOCCN:::	00101111
~	CCUCHOOLE	zu souchann		Sille Cicse / Gair	TO SCHOOL GOVERNOR	
			****		<u> </u>	*******
ëin	acctallt. Dar	noch colltox	ノウィ: ロックミカナック・レ	AIDARWARSIICHAN:		
	uesielli Eei	moch Some:/	/UI:CHISALZ:III N	CITICITACIONCIPCIE	CITILICIC WCIGCII, CO III	******
	TT					
- 70040000000000000000000000000000000000				TOO WIND - DONE	auctidia: libadaakiarbarki	<b>□ IT</b> :::
······································	rimmien i a	CKSVSIAINEN	SCHAUITI STADIIS	MELL WILL ELECTION	u isi ule obeliackieloaik	
- Maria Maria - Caral	timmten La	cksystemen	ochaum stabilis	SIELL MILL EDELIS	O ISCUIE ODELIACATE DALV	5
pes	ilimmien La	cksystemen	Schaum Stabins	siert wild. Ebensi	o ist die Oberiackjejbark	
pes	timmten La	cksystemen	Schaum Stabilis	sieri wiiu. Euerisi	U IST GIE ODELIACKIEJDALK	
pes	Kraterbild	cksystemen: Inc. zu odifen	Schaum Stabilis	sieri wiiu. Euerisi	distale obeliackiejbalk	
pes	timmten La 1 Kraterbildu	cksystemen Ina zu prüfen	Schaum Stabilis	sieri wiiu. Euerisi	o ist die Oberiackjerbark	
pes unc	t Kraterbildu	ıng zu prüfen				11174
นทด	t Kraterbildu	ıng zu prüfen			o ist die Oberiackje) bark	11174
unc unc	t Kraterbildu	ıng zu prüfen				11174

Der Einsatz von thermostabilen Silikonadditiven wie BYK-310 bei der Tafellackierung (sheet panels) kann durch auftretenden Stapeldruck, je nach eingesetztem Bindemittelsystem, zu einer Migration des Silikons auf die rückseitigen Bleche führen

